

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/800,326	CHEN ET AL.	
	Examiner	Art Unit	
	Brandi N Thomas	2873	<i>pw</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to \_\_\_\_\_.
2.  The allowed claim(s) is/are 1-16 and 25-34.
3.  The drawings filed on 11 March 2004 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
    - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of
 Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review ( PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 3/11/04 and 4/5/04
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

RICKY MACK  
PRIMARY EXAMINER

### **REASONS FOR ALLOWANCE**

1. The following is an examiner's statement of reasons for allowance: The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claim(s), in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in claim(s) 1-16 and 25-34, wherein the claimed invention comprises at least one grating being adapted to be movable among a set of discrete positions; a MEMS actuator adapted for moving said at least one grating to a selected position among said set of discrete positions, to direct light of a selected wavelength diffracted by said grating into a selected direction, as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Information Disclosure Statement***

2. Acknowledgement is made of receipt of Information Disclosure Statement(s) (PTO-1449) filed 3/11/04 and 4/5/04. An initialed copy is attached to this Office Action.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hung et al. (6329738) discloses an electrostatically-controllable actuator having a stationary electrode, with an actuating element separated from the stationary electrode by an actuation gap.

Dhuler et al. (6410361) discloses a MEMS thermal actuator device is provided that is capable of providing linear displacement in a plane generally parallel to the surface of a substrate.

Solgaard et al. (6389190) discloses a cross-connect switch for fiber-optic communication networks employing a wavelength dispersive element for providing multiport switching capability for a plurality of wavelengths.

Nakai (2002/0003661) discloses a diffractive optical element and a polarization separation element using this diffractive optical element, incident light can be effectively separated for the respective polarization directions over the entire used wavelength range.

Dhuler et al. (2001/0017358) discloses a microelectromechanical (MEMS) device is provided that includes a microelectronic substrate and a thermally actuated microactuator and associated components disposed on the substrate and formed as a unitary structure from a single crystalline material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandi N Thomas whose telephone number is 571-272-2341. The examiner can normally be reached on 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BNT

BNT  
July 8, 2004

Ricky Mack

RICKY MACK  
PRIMARY EXAMINER